

THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

COMMODITY FUTURES TRADING)	7:05CV5026
COMMISSION,)	
)	
Plaintiff,)	
vs.)	MEMORANDUM
)	AND ORDER
TODD J. DELAY, JACK McCAFFERY,)	
and JOHN D. LAWLESS,)	
)	
Defendants.)	

Defendant Todd J. Delay has filed a motion to exclude expert testimony (filing 169) and a related motion for expedited briefing and hearing (filing 172). Plaintiff has filed a motion for leave to file a supplemental reply (filing 197). Because Defendant's motion to exclude expert testimony is not in the nature of a motion in limine, but, rather, concerns a discovery dispute (*i.e.*, whether proposed opinion testimony was timely disclosed), these filings will be referred to Magistrate Judge Piester for determination. See NECivR 72.1.

Also, insofar as Magistrate Judge Piester has granted Defendant's motion to bifurcate trial of this matter as between liability and damages, and has ordered that the trial which is scheduled to commence on May 1, 2006, will be on issues of liability only, the parties must understand that a second trial on damages, if such a trial becomes necessary, will be tried to a different jury. That is, I will not hold the jury that hears the liability phase of the case once it returns its verdict on liability.

IT IS ORDERED that:

1. Filings 169, 172, and 197 are referred to Magistrate Judge Piester for determination.

2. Magistrate Judge Piester's order of February 16, 2006 (filing 144) is modified to provide that any trial on damages issues will not be tried to the same jury that determines liability issues.

April 5, 2005.

BY THE COURT:

s/ Richard G. Kopf
United States District Judge